

designated contract markets, derivatives clearing organizations, swaps execution facilities, swap dealers, major swap participants and/or certain other non-swap dealer/non-major swap participant counterparties who report such data. The technological protocols established by a swap data repository shall provide for the receipt of swap creation data, swap continuation data, real-time public reporting data, and all other data and information required to be reported to such swap data repository. The swap data repository shall ensure that its mechanisms for swap data acceptance are reliable and secure.

(b) A registered swap data repository shall set forth in its application for registration as described in § 49.3 the specific asset class or classes for which it will accept swaps data. If a swap data repository accepts swap data of a particular asset class, then it shall accept data from all swaps of that asset class, unless otherwise prescribed by the Commission.

(c) A registered swap data repository shall establish policies and procedures reasonably designed to prevent any provision in a valid swap from being invalidated or modified through the confirmation or recording process of the swap data repository. The policies and procedures must ensure that the swap data repository's user agreements are designed to prevent any such invalidation or modification.

(d) A registered swap data repository shall establish procedures and provide facilities for effectively resolving disputes over the accuracy of the swap data and positions that are recorded in the registered swap data repository.

§ 49.11 Confirmation of data accuracy.

(a) A registered swap data repository shall establish policies and procedures to ensure the accuracy of swap data and other regulatory information required to be reported by part 45 that it receives from reporting entities or certain third-party service providers acting on their behalf, such as confirmation or matching service providers.

(b) A registered swap data repository shall confirm the accuracy of all swap data that is submitted pursuant to part

45. (1) *Confirmation of data accuracy for swap creation data as defined in part 45.*

(i) A registered swap data repository has confirmed the accuracy of swap creation data that was submitted directly by a counterparty if the swap data repository has notified both counterparties of the data that was submitted and received from both counterparties acknowledgement of the accuracy of the swap data and corrections for any errors.

(ii) A registered swap data repository has confirmed the accuracy of swap creation data that was submitted by a swap execution facility, designated contract market, derivatives clearing organization, or third-party service provider who is acting on behalf of a counterparty, if the swap data repository has complied with each of the following:

(A) The swap data repository has formed a reasonable belief that the swap data is accurate;

(B) The swap data that was submitted, or any accompanying information, evidences that both counterparties agreed to the data; and

(C) The swap data repository has provided both counterparties with a 48 hour correction period after which a counterparty is assumed to have acknowledged the accuracy of the swap data.

(2) *Confirmation of data accuracy for swap continuation data as defined in part 45.*

(i) A registered swap data repository has confirmed the accuracy of the swap continuation data that was submitted directly by a counterparty if the swap data repository has notified both counterparties of the data that was submitted and provided both counterparties with a 48 hour correction period after which a counterparty is assumed to have acknowledged the accuracy of the data.

(ii) A registered swap data repository has confirmed the accuracy of swap continuation data that was submitted by a swap execution facility, designated contract market, derivatives clearing organization, or third-party service provider who is acting on behalf of a counterparty, if the swap data repository has complied with each of the following:

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(A) The swap data repository has formed a reasonable belief that the swap data is accurate; and

(B) The swap data repository has provided both counterparties with a 48 hour correction period after which a counterparty is assumed to have acknowledged the accuracy of the swap data.

(c) A registered swap data repository shall keep a record of corrected errors that is available upon request to the Commission.

§ 49.12 Swap data repository record-keeping requirements.

(a) A registered swap data repository shall maintain its books and records in accordance with the requirements of part 45 of this chapter regarding the swap data required to be reported to the swap data repository.

(b) A registered swap data repository shall maintain swap data (including all historical positions) throughout the existence of the swap and for five years following final termination of the swap, during which time the records must be readily accessible by the swap data repository and available to the Commission via real-time electronic access; and in archival storage for which such swap data is retrievable by the swap data repository within three business days.

(c) All records required to be kept pursuant to this Regulation shall be open to inspection upon request by any representative of the Commission and the United States Department of Justice. Copies of all such records shall be provided, at the expense of the swap data repository or person required to keep the record, to any representative of the Commission upon request, either by electronic means, in hard copy, or both, as requested by the Commission.

(d) A registered swap data repository shall comply with the real time public reporting and recordkeeping requirements prescribed in § 49.15 and part 43 of this chapter.

(e) A registered swap data repository shall establish policies and procedures to calculate positions for position limits and any other purpose as required by the Commission, for all persons with swaps that have not expired main-

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tained by the registered swap data repository.

§ 49.13 Monitoring, screening and analyzing swap data.

(a) *Duty to monitor, screen and analyze data.* A registered swap data repository shall monitor, screen, and analyze all swap data in its possession in such a manner as the Commission may require. A swap data repository shall routinely monitor, screen, and analyze swap data for the purpose of any standing swap surveillance objectives which the Commission may establish as well as perform specific monitoring, screening, and analysis tasks based on ad hoc requests by the Commission.

(b) *Capacity to monitor, screen and analyze data.* A registered swap data repository shall establish and maintain sufficient information technology, staff, and other resources to fulfill the requirements in this § 49.13 in a manner prescribed by the Commission. A swap data repository shall monitor the sufficiency of such resources at least annually, and adjust its resources as its responsibilities, or the volume of swap transactions subject to monitoring, screening, and analysis, increase.

§ 49.14 Monitoring, screening and analyzing end-user clearing exemption claims by individual and affiliated entities.

A registered swap data repository shall have automated systems capable of identifying, aggregating, sorting, and filtering all swap transactions that are reported to it which are exempt from clearing pursuant to Section 2(h)(7) of the Act. Such capabilities shall be applicable to any information provided to a swap data repository by or on behalf of an end user regarding how such end user meets the requirements of Sections 2(h)(7)(A)(i), 2(h)(7)(A)(ii), and 2(h)(7)(A)(iii) of the Act and any Commission regulations thereunder.

§ 49.15 Real-time public reporting of swap data.

(a) *Scope.* The provisions of this § 49.15 apply to real-time public reporting of swap data, as defined in part 43 of this chapter.